EXHIBIT 11
DATE 2/9/07
HB 5

HB 5
2005 Legislature
Section 12 Requirements

Section 12. University buildings -- operation and maintenance. (1) *The 59th legislature finds that the operation and maintenance of portions of new building space that supports academic missions of the university system should be funded with current unrestricted university funds. The funding of current unrestricted university funds is shared between state general fund, tuition, and other minor sources.*

(2) The office of budget and program planning, the architecture and engineering division of the department of administration, the legislative fiscal division, and the Montana university system are directed to come to an agreement and to recommend to the 60th legislature the portions of new building space that support academic missions of the university system and funding allocations between the general fund and tuition. If the legislative audit division conducts a performance audit of the university system building program, then the office of budget and program planning, the architecture and engineering division of the department of administration, the legislative fiscal division, and the Montana university system shall take the results of the audit into consideration in making a recommendation.

(3) If the university system chooses to build nonacademic buildings, the operation and maintenance costs for the buildings must be funded from nonstate and nontuition sources.

What Has Been Accomplished to Date

There was no Legislative Audit of the University Building Program during the 2007 biennium.

A new form that details:

- the authorization of the space;
- Details how the campuses would expect the new space to be utilized;
- Anticipated operation and maintenance costs broken into personal services and operating costs;
- Other available revenue than Current Unrestricted Funds (CUF) to help pay for the operations and maintenance

The group recognizes that these recommendations are not binding on future legislatures.

Recommendations

Governor's Consent to Construct Buildings

The State will not contribute towards the operations and maintenance for new space of any building that has only the Governor's consent in 18-2-102 (2)c which does not require legislative approval.

18-2-102. Authority to construct buildings. *(1) Except as provided in subsection (2), a building costing more than $150,000 may not be constructed without the consent of the legislature. Legislative approval of repair and maintenance costs as part of an agency's operating budget constitutes the legislature's consent. When a building costing more than $150,000 is to be financed in a manner that does not require legislative appropriation of money, the consent may be in the form of a joint resolution.*

(2) (a) The governor may authorize the emergency repair or alteration of a building and is authorized to transfer funds and authority as necessary to accomplish the project. Transfers may not be made from the funds for an uncompleted capital project unless the project is under the supervision of the same agency.

(b) The regents of the Montana university system may authorize the construction of revenue-producing facilities referred to in 20-25-302 if they are to be financed wholly from the revenue from the facility.

(c) The regents of the Montana university system, with the consent of the governor, may authorize the construction of a building that is financed wholly with federal or private money if the construction of the building will not result in any new programs.

(d) The department of military affairs, with the consent of the governor, may authorize the construction of a building that is financed wholly with federal or private money on federal land for the use or benefit of the state.

Note:
Historically the State has interrupted "*...will not result in any new programs*" to include no new operational and maintenance costs.

Legislatively Authorized Space

1. The Current Unrestricted Funds (CUF) will always fund the operations and maintenance for the **Instruction** portion of new space approved by the legislature.

2. **Instruction Related** portions of new space will be presumed funded with Current Unrestricted Funds, but may be negotiated in special circumstances. Instruction Related activities and functions that support the instruction program, such as libraries, student services, academic support, institutional support and native American student centers.

3. Operation and Maintenance costs of space occupied by **Sponsored Research and Public Services** will be negotiated between the Montana University System, Long Range Building Subcommittee and the Executive. The Current Unrestricted Funds will support

those portions of space agreed to in Long Range Building Subcommittee. Other sources of revenue should be applied first before seeking Current Unrestricted Funds.

4. **Non Academic** space is never funded with Current Unrestricted Funds.

5. The University System will clearly explain the anticipated uses of new space and the anticipated operations and maintenance costs in HB 5 to the Long Range Planning Subcommittee.

Space Allocations for Building Projects in HB 5

The following table is the estimate of the space allocations of building projects in HB 5 that will require additional operation and maintenance in future biennia.

Additional Operation and Maintenance funds are considered in House Bill 2.

Project	Location	Instruction	Instruction Related	Sponsored Research or Public Service	Non Academic
Renovate Gaines Hall	Bozeman	100%			
Law School Addition	Missoula	40%	60%		
Museum of the Rockies	Bozeman	40%	10%	20%	30%
School of Education Bldg	Missoula	58%	42%		
HHP Physiological & Nut. Lab.	Misoula			100%	
New Parking Structure	Missoula				100%
Augment Petroleum Building	Butte	50%		50%	